

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

March 15, 2013

Lyle W. Cayce
Clerk

No. 12-40752

Summary Calendar

LOWELL MERRITT,

Plaintiff-Appellant

v.

SUZANNE H. WOOTEN,

Defendant-Appellee

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:12-CV-75

Before REAVLEY, JOLLY, and DAVIS, Circuit Judges.

PER CURIAM:*

Lowell Merritt appeals the dismissal of his 42 U.S.C. § 1983 suit pursuant to Federal Rules of Civil Procedure 12(b)(1) and (b)(6). Merritt argues that the district court erred when it dismissed his complaint for failure to state a claim for which relief can be granted. He posits that former Judge Wooten had no judicial immunity from § 1983 liability because the court over which she presided lacked subject matter jurisdiction over the state court proceedings and that she violated his constitutional rights.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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Merritt fails to brief the district court's dismissal of his complaint pursuant to Rule 12(b)(1), and he has therefore abandoned on appeal any challenge to that ground for dismissal. *See Grant v. Cuellar*, 59 F.3d 523, 524 (5th Cir. 1995). Moreover, we perceive no error in the district court's conclusion that this case is frivolous because Judge Wooten had subject matter jurisdiction in the state court proceedings and was entitled to absolute immunity for her actions taken in her judicial capacity. *See, e.g., Adams v. McIlhany*, 764 F.2d 294, 297 (5th Cir. 1985).

The judgment of the district court is AFFIRMED.